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MISCELLANY.

Disbarment of Attorney for Malpractice—Va. Code, 1904, Secs. 3195-6—Norfolk and Portsmouth Bar Asso. v. Morris.—Proceeding to disbar attorneys are so unfortunately rare in this state, that we publish hereunder a copy of a record in such a case with the hope that we may encourage such proceedings by making them easy.

VIRGINIA:—

Pleas before the Court of Law and Chancery of the City of Norfolk at the Court House of said City on Wednesday the 16th day of July, 1902.

Be it remembered that heretofore, to-wit:—In said court on the 21st day of June, 1902, came the Norfolk and Portsmouth Bar Association and filed its complaint against P. J. Morris in the words and figures following:

To the Honorable William Bruce Martin,

Judge of the Court of Law and Chancery of the City of Norfolk:

The Norfolk and Portsmouth Bar Association, a corporation organized under an Act of the General Assembly of Virginia approved March 5th, 1900, and given by said act the power in its corporate name to take, institute and prosecute any action, suit or other proceeding in the courts of the land, or elsewhere, for the purpose of punishing or disbarring unworthy members of the profession, which act is referred to as a part hereof, complains that P. J. Morris, an attorney licensed to practice law at the bar of this court, and practicing therein, has been guilty of malpractice and corrupt unprofessional conduct in this: That heretofore, to-wit, on or about the 15th day of October in the year 1901, one Julia Ann Anderson, the wife of Benjamin W. Anderson, visited the office of the said P. J. Morris, in the city of Norfolk, to engage the services of him, the said P. J. Morris, as her counsel for the purpose of suing for and obtaining a divorce from her husband, Benjamin W. Anderson, and thereupon the said P. J. Morris consented to be engaged by the said Julia Ann Anderson as her counsel for the purpose aforesaid, and then and at other times thereafter received of the said Julia Ann Anderson a fee, in the whole amounting to fifty dollars for said services; that the said P. J. Morris, so engaged as the counsel of the said Julia Ann Anderson as aforesaid, on or about the said 15th day of October, 1901, prepared or had prepared a bill to be filed in the Court of Law and Chancery of the City of Norfolk, Virginia, wherein were set out the grounds of said suit for divorce, and the said Julia Ann Anderson, under the guidance and direction of the said P. J. Morris, as her counsel as aforesaid, signed the said bill and made oath to the same; that notwithstanding this, the said P. J. Morris, counsel as aforesaid,

never filed the said bill nor took any proceedings in said court, nor in any other court on behalf of the said Julia Ann Anderson, but in answer to the frequent inquiries and importunities of the said Julia Ann Anderson in regard to her said divorce, he, the said P. J. Morris, on or about the first day of February, 1902, prepared and manufactured, or caused to be prepared and manufactured, a paper purporting to be a decree of the circuit court of the Northern District of the state of Dakota, in the eighth circuit thereof, to be dated "December Term, 1901," and to be signed by James V. Tomkins, as the clerk of the said court, with the seal of the said court attached, whereby after reciting therein that a certain cause entitled Julia Ann Anderson v. Benjamin W. Anderson, in equity, had been heard upon the bill of complainant (no answer having been filed), and the depositions of Ellery W. Henderson and F. W. Elliott and Sarah J. Newton, duly taken on the 12th day of November, 1901, and filed in said cause on the 16th day of November, 1901, that the said court had maturely considered the same, and that the charge of wilful neglect and wilful desertion had been fully proved, a decree of absolute divorce from Benjamin W. Anderson was granted the said Julia Ann Anderson, with the right to both parties to remarry again; and after so preparing and manufacturing, or causing to be prepared and manufactured the said decree, he, the said P. J. Morris, knowing the said decree to be altogether false and fictitious, and the facts therein stated to be in every particular false and untrue, on or about the said first day of February, 1902, delivered the said false and fictitious decree to the said Julia Ann Anderson.

The Norfolk and Portsmouth Bar Association,

(Seal.)

By JOSEPH T. ALLYN, its President.

Attest:

T. S. PURDIE, Secretary.

State of Virginia, City of Norfolk, to-wit:

This day personally appeared before me, Edward Brockenbrough, a Notary Public for the city of Norfolk, in the state of Virginia, Joseph T. Allyn, who being duly sworn, makes oath and says, that the facts stated in the above complaint are true to the best of his, the affiant's knowledge, information and belief.

JOSEPH T. ALLYN.

Subscribed and sworn to before me, in the City of Norfolk, Virginia, this 19th day of June, in the year 1902.

EDWARD BROCKENBROUGH.

Notary Public.

Wm. W. Old, Robt. M. Hughes, for complainant.

Whereupon a rule was entered and issued against the said P. J. Morris in the words and figures following:

In the Court of Law and Chancery of the City of Norfolk, June 21, 1902.

This day came the Norfolk and Portsmouth Bar Association, a corporation duly chartered under the laws of the commonwealth, by William W. Old and Robert M. Hughes, its attorneys, who have been retained and appointed as such under article XIV of the Constitution of the said association, and made complaint, verified by affidavit, that P. J. Morris, an attorney licensed to practice law at the bar of this court and practicing therein, has been guilty of malpractice and corrupt unprofessional conduct, in this: That heretofore, to-wit, on or about the 15th day of October, in the year 1901, one Julia Ann Anderson, the wife of Benjamin W. Anderson, visited the office of the said P. J. Morris, in the city of Norfolk, to engage the services of him, the said P. J. Morris, as her counsel, for the purpose of suing for and obtaining a divorce from her husband; Benjamin W. Anderson, and thereupon the said P. J. Morris consented to be engaged by the said Julia Ann Anderson as her counsel for the purpose aforesaid, and then and at other times thereafter received of the said Julia Ann Anderson a fee, in the whole amounting to fifty dollars, for said services; that the said P. J. Morris, so engaged as the counsel of the said Julia Ann Anderson, as aforesaid, on or about the said 15th day of October, 1901, prepared or had prepared a bill to be filed in the Court of Law and Chancery of the city of Norfolk, Virginia, wherein were set out the grounds of said suit for divorce, and the said Julia Ann Anderson, under the guidance and direction of the said P. J. Morris, as her counsel as aforesaid, signed the said bill and made oath to the same; that notwithstanding this, the said P. J. Morris, counsel as aforesaid, never filed the said bill nor took any proceedings in said court, nor in any other court, on behalf of the said Julia Ann Anderson, but in answer to the frequent inquiries and importunities of the said Julia Ann Anderson in regard to her said divorce, he, the said P. J. Morris, on or about the first day of February, 1902, prepared and manufactured, or caused to be prepared and manufactured, a paper purporting to be a decree of the circuit court of the Northern District of the state of Dakota, in the eighth circuit thereof, to be dated "December Term, 1901," and to be signed by James V. Tomkins, as the clerk of the said court, with the seal of the said court attached, whereby, after reciting therein that a certain cause entitled Julia Ann Anderson v. Benjamin W. Anderson, in equity, had been heard upon the bill of complainant (no answer having been filed), and the depositions of Ellery W. Henderson and F. W. Elliott and Sarah J. Newton, duly taken on the 12th day of November, 1901, and filed in said cause on the 16th day of November, 1901, that the said court had maturely considered the same, and that the charge of wilful neglect and wilful desertion had been fully proved, a decree of absolute divorce from Benjamin W. Anderson

was granted the said Julia Ann Anderson with the right to both parties to remarry again; and after so preparing and manufacturing, or causing to be prepared and manufactured the said decree, he, the said P. J. Morris, knowing the said decree to be altogether false and fictitious, and the facts therein stated to be in every respect false and untrue, on or about the said first day of February, 1902, delivered the said false and fictitious decree to the said Julia Ann Anderson.

And thereupon, on the motion of the said complainant, by its said attorneys, the court orders that a rule be issued against the said P. J. Morris, to appear before this court at 11 o'clock a. m., on the 2nd day of July, 1902, and show cause, if any he can, why his license to practice law shall not be revoked or suspended.

A copy. Teste: J. A. COLEMAN, D. C.

Endorsed on the back as follows:

Executed this 21st day of June, 1902, by serving a copy hereof on
P. J. Morris.

J. F. LAWLER, Sergt.
By C. L. QUINN, Deputy.

And afterwards, to-wit:

In the Court of Law and Chancery of the City of Norfolk, on the 2nd day of July, 1902.

The Norfolk and Portsmouth Bar Association

v.

P. J. Morris.

Upon a rule to show cause why his license to practice law therein should not be revoked or suspended.

This day came again the Norfolk and Portsmouth Bar Association, by Wm. W. Old and Robert M. Hughes, its attorneys, and also P. J. Morris, upon whom the rule issued against him by this court on the 21st day of June, 1902, appears to have been duly served, and thereupon the said P. J. Morris, asked leave of the court to appear specially for the purpose of quashing the said rule, on the ground that the copy thereof which had been served on him did not name any day on which he was to appear and answer the same, and the court having examined C. L. Quinn, the deputy sheriff who served the said rule and made return thereof, and it appearing from the evidence that no day was stated in the copy served on the said P. J. Morris on which he was to appear, and that the date on which he was to appear in the copy of said rule was not in the said copy when served, the court doth quash the said rule. And on the motion of the said Norfolk and Portsmouth Bar Association, by its said attorneys, the court doth order that another rule be issued against the said P. J. Morris, returnable to this court, at 11 o'clock a. m., on

Saturday, the 12th day of July, 1902, in the following words and figures, to-wit:

This day came the Norfolk and Portsmouth Bar Association, a corporation duly chartered under the laws of this commonwealth, by William W. Old and Robert M. Hughes, its attorneys, who have been retained and appointed as such under article XIV of the Constitution of the said association, and made complaint, verified by affidavit, that P. J. Morris, an attorney licensed to practice law at the bar of this court and practicing therein, has been guilty of malpractice and corrupt unprofessional conduct, in this: That heretofore, to-wit, on or about the 15th day of October, in the year 1901, one Julia Ann Anderson, the wife of Benjamin W. Anderson, visited the office of the said P. J. Morris, in the city of Norfolk, to engage the services of him, the said P. J. Morris, as her counsel for the purpose of suing for and obtaining a divorce from her husband, Benjamin W. Anderson, and thereupon the said P. J. Morris consented to be engaged by the said Julia Ann Anderson as her counsel for the purpose aforesaid, and then and at other times thereafter, received, of the said Julia Ann Anderson, a fee, in the whole amounting to fifty dollars, for said services; that the said P. J. Morris, so engaged as counsel of the said Julia Ann Anderson as aforesaid, on or about the said 15th day of October, 1901, prepared or had prepared a bill to be filed in the Court of Law and Chancery of the City of Norfolk, Virginia, wherein were set out the grounds of said suit for divorce, and the said Julia Ann Anderson, under the guidance and direction of the said P. J. Morris, as her counsel as aforesaid, signed the said bill and made oath to the same; that notwithstanding this, the said P. J. Morris, counsel as aforesaid, never filed the said bill nor took any proceedings in said court, nor in any other court, on behalf of the said Julia Ann Anderson, but in answer to the frequent inquiries and importunities of the said Julia Ann Anderson in regard to her said divorce, he, the said P. J. Morris, on or about the first day of February, 1902, prepared and manufactured or caused to be prepared and manufactured, a paper purporting to be a decree of the circuit court of the Northern District of the state of Dakota, in the Eighth Circuit thereof, to be dated "December Term, 1901," and to be signed by James V. Tomkins, as the clerk of the said court, with the seal of the said court attached, whereby, after reciting therein that a certain cause entitled Julia Ann Anderson *v.* Benjamin W. Anderson, in equity, had been heard upon the bill of complainant (no answer having been filed), and the depositions of Elery W. Henderson and F. W. Elliott and Sarah J. Newton, duly taken on the 12th day of November, 1901, and filed in said cause on the 16th day of November, 1901; that the said court had maturely considered the same, and that the charge of wilful neglect and wilful desertion had been fully proved, a decree of absolute divorce from

Benjamin W. Anderson was granted the said Julia Ann Anderson, with the right of both parties to remarry again; and after so preparing and manufacturing, or causing to be prepared and manufactured, the said decree, he, the said P. J. Morris, knowing the said decree to be altogether false and fictitious, and the facts therein stated to be in every respect false and untrue, on or about the said first day of February, 1902, delivered the said false and fictitious decree to the said Julia Ann Anderson.

And thereupon, on the motion of the said complainant, by its said attorneys, the court orders that a rule be issued against the said P. J. Morris to appear before this court at 11 o'clock a. m., on Saturday, the 12th day of July, 1902, and show cause, if any he can, why his license to practice law shall not be revoked or suspended.

A copy. Teste: JAMES V. TREHY, Clerk.

By JUNIUS A. COLEMAN, D. C.

Upon a copy of the foregoing rule the sergeant has made return as follows:

Executed this 2nd day of July, 1902, by delivering a copy hereof to P. J. Morris.

J. F. LAWLER, Sergt.

By C. L. QUINN, Deputy.

And afterwards in said court on the 12th day of July, 1902.

The Norfolk and Portsmouth Bar Association, Complainant

v.

P. J. Morris, Defendant.

Upon a rule to show cause why his license to practice law shall not be revoked or suspended.

This day came again the complainant by its attorneys, and the defendant in person appeared in response to the rule issued against him on the 2nd day of July, 1902, and the said defendant moved the court to quash the said rule on the ground that said complaint does not charge him with any bad motive or corrupt intent, which motion being argued is overruled, to which ruling the defendant excepts. And the defendant having demanded a jury, the said complainant moved that the said defendant be required to plead to the said rule so that the issue be made up before ordering a jury to be empaneled, but the defendant refused to plead, and the court, without requiring the defendant to plead at this time doth order that a jury shall be empaneled for the trial of such issue as may be made up at said trial. And on the motion of the complainant it is ordered that such jury shall be a special jury, to be formed, summoned and empaneled in the manner required by law, to which action of the court ordering a special jury the defendant excepts. And a writ of venire facias is awarded, to command the sergeant of this city to

summon such jury to appear here on Monday, the 14th day of July, 1902, at 10:30 o'clock a. m.

And now at this day, to-wit:

In the Court of Law and Chancery of the City of Norfolk, on the 14th day of July, 1902.

The Norfolk and Portsmouth Bar Association, Complainant

v.

P. J. Morris, Defendant.

Upon a rule to show cause why his license to practice law therein should not be revoked or suspended.

This day came again the complainant by counsel and the defendant in person, and thereupon the court inquired of the defendant whether he wished to plead or answer to said complaint and rule, which said defendant declined to do. And thereupon came a special jury of twenty qualified jurors free from just cause of exception, summoned by the sergeant of the city from the persons designated by the court in pursuance of the order entered on the 12th day of July, 1904, from which number sixteen were chosen by lot, and then the parties hereto, beginning with the complainant, alternately struck off one until the number was reduced to twelve, to-wit: Sandusky Dozier, W. T. Simcoe, J. W. Borum, W. D. Southall, Frank T. Clark, A. B. Broughton, W. T. Santos, Adam Tredwell, F. W. Blake, J. H. Waters, S. S. Dann, and H. M. Murray, who composed the jury for the trial of this case and who being sworn to inquire whether the defendant, P. J. Morris, is guilty or not guilty of the charges made against him in the complaint filed in this cause as set forth in said complaint, and having heard the evidence and arguments of counsel, returned a verdict in these words: "We, the jury, find the defendant guilty as charged in the complaint and recommend him to the clemency of the court." Whereupon it being demanded of the said P. J. Morris if anything for himself he had or knew to say why the court here should not now proceed to pronounce judgment against him, and nothing being offered or alleged in delay of judgment, it is therefore considered by the court that the license heretofore granted the said P. J. Morris to practice law in this court be and the same is hereby revoked.

And now at this day, to-wit:

In the Court of Law and Chancery of the City of Norfolk, on the 16th day of July, 1902.

The Norfolk and Portsmouth Bar Association, Complainant

v.

P. J. Morris, Defendant.

Upon a rule to show cause why his license to practice law therein should not be revoked or suspended.

This day came again the complainant, by counsel, and the defendant in person, and thereupon the defendant moved the court to set aside the verdict of the jury in this case, found on the 14th day of July, 1902, and also the judgment entered on said verdict and grant him a new trial on the ground that said verdict is contrary to law and the evidence, which motion is overruled, to which ruling of the court the defendant excepts and leave is given him to file his bill of exceptions at a future day.

VIRGINIA:

In the Clerk's Office of the Court of Law and Chancery of the City of Norfolk, on the 29th day of July, 1902.

I, James V. Trehy, clerk of the Court of Law and Chancery of the City of Norfolk, do certify that the foregoing is a true transcript from the record of said court.

Given under my hand the day and year above written.

JAMES V. TREHY, Clerk.

REPORT OF COMMITTEE.

To the Norfolk and Portsmouth Bar Association:

By a resolution of the executive committee, adopted on the 5th day of June, 1902, a copy of which is herewith filed, the undersigned were directed "to institute and conduct to final determination, according to law, before the proper court or courts, proceedings for revoking the license of P. J. Morris, and of disbarring him from practicing law in the courts of Norfolk, Portsmouth and Norfolk county."

We respectfully report, that, in obedience to this direction, on June 21st, 1902, we instituted proceedings, in the name of the association, in the Court of Law and Chancery of the City of Norfolk, for the purpose of having the said P. J. Morris disbarred from practicing law in that court, and after a full hearing of the matter before a jury and the court, an order was entered on July 16th, 1902, disbarring him. A copy of the record in said cause is herewith filed, marked A, as a part of this report.

Afterwards, upon proceedings in the corporation court of Norfolk city and in the county court of Norfolk county, based upon the order entered by the Court of Law and Chancery, orders were entered in both of those courts disbarring the said P. J. Morris from practicing in those courts, in the corporation court of Norfolk city on August 11th, 1902, and in the county court of Norfolk county on September 20th, 1902. Copies of these orders are herewith filed, marked B and C respectively, as parts of this report.

We took no proceedings to disbar the said P. J. Morris in the circuit court of Norfolk city, the circuit court of Norfolk county, the circuit court of Portsmouth city, and the court of Hastings

of Portsmouth city, because, upon an examination of the records of those courts, it did not appear that he had ever **qualified** to practice in either of said courts. We herewith file letters from the clerks of those courts to this effect, marked D, E and F respectively, as parts of this report.

An examination of the statute, section 3195 of the Code, as amended, Acts 1899-1900, page 1060, justified us in the conclusion that unless an attorney **had qualified** to practice in a court, the record of conviction of malpractice or any corrupt unprofessional conduct in another court could not be made the basis of disbarment in such court, but we took the precaution to call the attention of the judges of those courts, in which the said P. J. Morris had not qualified, to the fact of his disbarment in the courts in which he had qualified to practice law, so that he might not be allowed to practice in those courts in which he had not qualified to practice, because he had not qualified to practice therein, and also might not be allowed to qualify to practice therein. We consider this as all that could be done in the premises.

We received from your secretary the report of your committee on grievances, and certain papers therein referred to, for our information and assistance in this prosecution, all of which we herewith return with this report, also an extra copy of the record of the case in the Court of Law and Chancery.

Respectfully submitted,

WM. W. OLD,

ROBERT M. HUGHES.